

Stephen E. Geduldig, Esquire
Attorney ID No. 43530
Email: sgeduldig@pionlaw.com

Jeffrey T. McGuire, Esquire
Attorney ID No. 73617
Email: jmcguire@pionlaw.com

PION, NERONE, GIRMAN, WINSLOW & SMITH, P.C.
2404 Park Drive Suite 404
Harrisburg, PA 17101
Ph: (717) 737-5833
Fax: (717) 737-5553

Attorneys for Plaintiff,
Swift Transportation Co. of Arizona, LLC

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SWIFT TRANSPORTATION CO.	:	
OF ARIZONA, LLC.	:	Civil Action – Law
Plaintiff	:	
	:	
	:	
v.	:	
	:	
PHILIP L. MINCHOFF, JASON A.	:	
STUMHOFFER, AND J&L TRUCKING	:	No.
Defendants	:	

COMPLAINT

AND NOW come Plaintiff, Swift Transportation Co. of Arizona, LLC., in its own right, by and through their counsel, Pion, Nerone, Girman, Winslow & Smith, P.C., and hereby file the instant Complaint alleging as follows:

1. Plaintiff, Swift Transportation Co. of Arizona, LLC, is a trucking company organized and existing under the laws of the state of Arizona with its principle place of business at 2200 S. 75th Avenue, Phoenix, Arizona 85043.
2. Defendant, Philip L. Minchoff, is an adult individual residing at 17 Richard Street, Pottsville, Pennsylvania 17901.

3. Defendant, Jason A. Stumhofer, is an adult individual residing or doing business at 1690 Breezy Acres Road, Orwigsburg, Pennsylvania 17961.

4. Defendant, J&L Trucking Service, is a fictitious name for Jason A. Stumhofer doing business as a trucking company with a principal place of business located at 1690 Breezy Acres Road, Orwigsburg, Pennsylvania 17961.

5. Defendant, J&L Trucking Service, operates as a trucking company under US DOT No. 2292403.

6. Defendant, Jason A. Stumhofer, as an individual and operating under the fictitious name J&L Trucking Service will herein after be referred to as J&L.

JURISDICTION AND VENUE

7. The amount in controversy exceeds the sum or value of \$75,000.00.

8. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds the sum or value of \$75,000.00 and is between citizens of different states.

9. Venue is proper pursuant to 28 U.S.C § 1391(b), as a substantial part of the events or omissions giving rise to the claim occurred in this district.

FACTUAL ALLEGATIONS

10. At all times pertinent hereto, upon information and belief, Defendant Philip L. Minchoff, was the agent, servant, workman, contractor and/or employee of J&L and was acting within the course and scope of his agency and/or employment.

11. At all times pertinent hereto, upon information and belief, Defendant, Jason A. Stumhofer, was the owner of a dump truck with Pennsylvania License plate No. AG17580 and VIN 3ALMGNDV7EDFV2309 operated by Defendant, Philip L. Minchoff.

12. At all times material hereto, Defendant, Philip L. Minchoff, acted and/or failed to act in his individual capacity and as a duly authorized agent, servant, and/or employee of J&L, and was operating within the course and scope of said agency, servitude and/or employment at the time of the accident which forms the basis of this Complaint.

13. At all times material hereto, J&L, acted and/or failed to act in its individual capacity and by and through its duly authorized agent, servant, and/or employee, Philip L. Minchoff, and by virtue of said agency, servitude and/or employment, J&L is vicariously liable for the acts and/or failures to act of Defendant, Philip L. Minchoff.

14. The accident which forms the basis of this Complaint occurred on or about July 14, 2020, at approximately 8:27 a.m., on State Route 22 in Bethlehem Township, Northampton County, Pennsylvania.

15. At the aforesaid time and place, Plaintiff, Swift Transportation of Arizona, LLC's driver, Russell S. Thomas, was properly and prudently operating a 2020 White Freightliner truck, VIN 3AKJHHDRXLSP8573, with a 2018 White

Hyundai semi-trailer with tag No. P659078 and VIN 3H3VJ32COJT223436 both owned by Plaintiff, Swift Transportation of Arizona, LLC.

16. At the aforesaid time and place, Defendant, Philip L. Minchoff, was the permissive operator of a dump truck with Pennsylvania License plate No. AG17580 and VIN 3ALMGNDV7EDFV2309, owned by Defendant, Jason A. Stumhofer.

17. Mr. Russell was operating Plaintiff's truck eastbound on Route 22 approaching the exit to Route 191.

18. Philip L. Minchoff was operating Defendant's truck in the same direction directly behind Plaintiff's vehicle.

19. Mr. Russell attempted to take the 191 exit and in order to do so he activated his right turn signal and began to slow down.

20. Then, suddenly and without warning, Defendant, Philip L. Minchoff, carelessly and negligently proceeded to drive Defendants' truck into the rear of Plaintiff's truck, thus causing the accident which forms the basis of this Complaint.

21. The aforesaid negligence and carelessness of Defendants directly and proximately caused Plaintiffs to suffer losses and damages in an amount in excess of \$75,000, as more fully described below.

NEGLIGENCE

22. Paragraphs 1 through 21 above are incorporated herein as if set forth at length.

23. The aforesaid collision was directly and proximately caused by the negligence and carelessness of Defendant, Philip L. Minchoff, for which J&L also is vicariously liable, in that Defendant, Philip L. Minchoff:

- a. Failed to keep a proper lookout;
- b. Failed to properly observe the roadway;
- c. Failed to keep his eyes on the roadway;
- d. Being inattentive to his duties as an operator of a motor vehicle;
- e. Failed to stop his vehicle;
- f. Failed to slow his vehicle;
- g. Failed to keep a proper and safe following distance;
- h. Failed to take proper and evasive action;
- i. Operated his vehicle in such a way as to cause a collision with Plaintiff's vehicle;
- j. Failed to maneuver his vehicle so as to avoid a collision;
- k. Failed to properly maintain control of his vehicle as warranted under the circumstances;
- l. Failure to exercise the degree of care which an ordinary and prudent person would have done under the circumstances;
- m. Disregarding Mr. Russell's turn signal and break lights; and

n. Failure to slow down in light of the conditions then and there existing in violation of 75 Pa.C.S. Section 3361 of the Pennsylvania Vehicle Code.

24. Plaintiff has spent \$45,322.12 to repair its tractor from the damage caused by this collision.

25. Plaintiff has incurred twenty-five days of loss of use of the tractor during its repair from the damage caused by this collision at the cost of \$5,748.75.

26. Plaintiff's trailer was damaged beyond its value as a result of this collision and had a total value of \$26,575.00 and after receipt of the salvage value of \$1,328.75 the loss for the trailer was \$25,246.25.

27. Plaintiff incurred the cost of a hazmat cleanup as a result of this collision in the amount of \$1,550.15.

28. Plaintiff incurred the cost of transferring the load in the trailer as a result of this collision in the amount of \$2,710.50.

29. Plaintiff has incurred total losses of \$103,045.27 as a result of this accident.

30. As a direct and proximate result of the aforesaid negligent and careless manner in which Defendant, Philip L. Minchoff, operated his motor vehicle, for which J&L also is vicariously liable, Plaintiff, Swift Transportation of Arizona, LLC, has suffered losses and damages in the form of having to pay for property

damage and other expenses related to the accident in the amount of one hundred three thousand forty-five dollars and twenty-seven cents (\$103,045.27), and claim is made therefor.

WHEREFORE, Plaintiff, Swift Transportation of Arizona, LLC, demands judgment in its favor and against Defendants, Philip L. Minchoff, Jason A. Stumhofer and J&L Trucking, in the amount of one hundred three thousand forty-five dollars and twenty-seven cents (\$103,045.27), plus interest and costs of suit.

Respectfully submitted,

**PION, NERONE, GIRMAN,
WINSLOW & SMITH, P.C.**

Date: 2/15/21

s/Jeffrey T. McGuire
Jeffrey T. McGuire, ESQUIRE
Attorney ID No. 73617

*Attorneys for Plaintiff,
Swift Transportation Co. of Arizona, LLC.*